



**DEVELOPMENT
SERVICES
DEPARTMENT**

The City of Morgantown

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September 22, 2016

Landmark Ventures, LLC
c/o Mark Furfari
704 Richwood Avenue
Morgantown, WV 26505

**RE: CU16-05 / Mario's Fishbowl / 704 Richwood Avenue
Tax Map 30, Parcels 30 and 31**

Dear Mr. Furfari:

This letter is to notify you of the decision made by the Board of Zoning Appeals concerning the above referenced conditional use petition for "Restaurant, Private Club" use at 704 Richwood Avenue. The decision is as follows:

Board of Zoning Appeals, September 22, 2016:

1. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
2. The Board approved the proposed conditional "Restaurant, Private Club" under Case No. CU16-05 with the following conditions:
 - A. That the petitioner must maintain compliance with all supplemental regulations set forth in Section 1331.06(27) of the Planning and Zoning Code.
 - B. That the petitioner must maintain permitting from the Monongalia County Health Department as a "restaurant" under the *Monongalia County Clean Indoor Air Regulations*.
 - C. That, to sustain the establishment's obligation to remain a bona fide restaurant, *Mario's Fishbowl* must be open no later than 11:00 AM Monday through Friday for the purpose of serving lunch.
 - D. That *Mario's Fishbowl* maintain a seating capacity for at least 50 persons and that, with the exception of the existing elongated countertop seating, seats at a bar may not be counted as meeting the minimum seating capacity.
 - E. That the petitioner shall voluntarily submit all necessary financial information to the City for the subject establishment following its first twelve (12) months of operation as a "Restaurant, Private Club" use to ensure compliance with Article 1331.06 (27) (e) provisions, which requires the sale of food and non-alcoholic beverages to comprise a minimum of 60 percent of total gross sales of all food and drink items in each calendar month.

- F. That the beneficiary of this conditional use approval is specific to Landmark Ventures, LLC (DBA *Mario's Fishbowl*). Said beneficiary may not be transferred without prior approval of the Board of Zoning Appeals.

The approval of this conditional use is set to expire in twelve (12) months unless you can demonstrate that it has been acted upon as evidenced by permits, construction, or required licenses. This expiration deadline may be extended to eighteen (18) months upon prior written request of the Board.

This decision may be appealed to the Circuit Court of Monongalia County within thirty (30) days. Any work done relating to decisions rendered by the Board of Zoning Appeals during this thirty-day period is at the sole financial risk of the applicant.

Please note that requisite building permits must be obtained prior to the commencement of any work for which approval was granted herein.

Should you have any questions or require further clarification, please contact the undersigned. We look forward to serving your plans review and approval needs.

Respectfully,

A handwritten signature in cursive script, reading "Stacy Hollar".

Stacy Hollar
Executive Secretary
Development Services Department
shollar@morgantownwv.gov

ADDENDUM A – Approved Findings of Fact
CU16-05 / Mario’s Fishbowl / 704 Richwood Avenue

Finding of Fact No. 1 – Congestion in the streets is not increased, in that:

The proposed sale of liquor in addition to beer and wine is not anticipated to alter existing on- or off-street parking demand or vehicular trips generated by the *Mario’s Fishbowl* restaurant establishment.

Finding of Fact No. 2 – Safety from fire, panic, and other danger is not jeopardized, in that:

The proposed sale of liquor in addition to beer and wine is not anticipated to alter the character of the landmark establishment described by the petitioner.

Finding of Fact No. 3 – Provision of adequate light and air is not disturbed, in that:

No physical changes to the *Mario’s Fishbowl* building are proposed for the sale of liquor that would alter existing sunlight distribution or air flow patterns.

Finding of Fact No. 4 – Overcrowding of land does not result, in that:

No physical changes to the *Mario’s Fishbowl* building is proposed for the sale of liquor that would increase the gross floor area of the restaurant establishment or lot coverage or height of the building.

Finding of Fact No. 5 – Undue congestion of population is not created, in that:

No residential component is included in the proposed conditional “Restaurant, Private Club” use.

Finding of Fact No. 6 – Granting this request will not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:

The proposed sale of liquor in addition to beer and wine is not anticipated to increase the demand for public goods, services, or utilities above that already serving the existing *Mario’s Fishbowl* restaurant establishment and surrounding area.

Finding of Fact No. 7 – Value of buildings will be conserved, in that:

The proposed sale of liquor in addition to beer and wine is not anticipated to alter the value of the subject building or surrounding B-1 District buildings.

Finding of Fact No. 8 – The most appropriate use of land is encouraged, in that:

The proposed sale of liquor in addition to beer and wine is not anticipated to alter the existing neighborhood bar and grill landmark of *Mario’s Fishbowl*.